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# HOWARD MARKLEIN

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STATE REPRESENTATIVE • 51<sup>ST</sup> ASSEMBLY DISTRICT

## TESTIMONY ON AB 233

October 12, 2011

Thank you, Chairman Van Roy and the rest of the Assembly Committee on Homeland Security and State Affairs for allowing me to testify today in favor of Assembly Bill 233, which provides for an exemption to the prevailing wage law.

The idea for this bill came from a project that was developed by the Friends of Blue Mounds State Park. Volunteers raised over \$400,000 in private funds to rebuild a park shelter. After discovering that they were required to comply with prevailing wage law, the organization found that they had not raised the necessary funds to complete the project. Had the project been prevailing wage exempt, the shelter could be built with private funds. You will hear from the Friends of Blue Mounds State Park later today.

You will also hear from a constituent of mine, Douglas Weaver, who is a small general contractor in Lafayette County. The administrative requirements of the prevailing wage discourage small builders from getting involved in these projects. If anyone has read the recent employment data for Wisconsin, you will note the job losses in the construction industry. We should be working to get as many of these construction people back to work as possible.

This legislation provides an exemption from the prevailing wage law for a public works project that is not less than 85% privately funded as long as the project is dedicated to the state or a local governmental unit for conservation, recreational, or educational purposes. This bill would positively affect the nice amenities that are privately funded that the taxpayers cannot afford. Some examples include libraries, swimming pools, auditoriums, and athletic venues.

This bill encourages private sector dollars to flow into projects that will help the general public in our local parks, schools, and libraries. The intent of this law is not to abolish prevailing wage, but to facilitate the building of public works projects that are privately funded for public use. In times of fiscal austerity, we, as the state, should try our best to leverage private dollars to maximize their positive effect on our communities.

Thank you.

Weaver Carpentry, LLC  
220 E. Catherine Street  
Darlington, WI 53530

October 7, 2011

State Representative Karl Van Roy  
Chairman, Assembly Committee on Homeland Security & State Affairs  
204 North, State Capitol  
Madison, WI 53708

Dear Representative Van Roy:

It has been brought to my attention that suggested legislation will be brought to committee that would relax prevailing wage laws when private and charitable funding is in play. I am a licensed General Contractor with the State of Wisconsin and have a decade of experience as a business owner. I would like to offer my supportive opinions regarding this bill.

Prevailing wage rules add substantially to the expense of any project by forcing upon the contractor a wage scale that is based upon the political force of unions rather than free market determination of the value of work. Although prevailing wage scales vary some by geographic location, one such scale that comes to memory required the contractor to pay \$68 per hour for a concrete finisher. Such work in the private market would go for around \$25 per hour.

Furthermore, the wage requirements are in general prohibitive for smaller contractors such as myself. In example, let's say that I am building a small structure for a local school. Prevailing wage rules set a wage rate for many different operations such as carpenter, sider, roofer, etc. With a crew of three men, everyone does everything. And to keep track of what rate is being paid and properly reported for which person and their individual particular function is just an administrative headache.

So the relevance here is when a charity donates funds for a particular project, to force prevailing wage rules on that project only makes the work more inaccessible by inflating fundraising needs, inflating the contractor's administrative overhead charges, and limiting the choice of contractors to larger public companies or those that focus on prevailing wage work. To eliminate this restriction, especially where private funding is concerned, would be an excellent decision.

Sincerely,

Douglas Weaver, Member

## **WISCONSIN PIPE TRADES ASSOCIATION**

11175 W Parkland Ave  
Milwaukee, WI 53224  
[www.wipipetrades.org](http://www.wipipetrades.org)

TO: Representative Karl Van Roy, Chair  
Members, Assembly Committee on Homeland Security and State Affairs

FR: Kevin La Mere, President  
Wisconsin Pipe Trades Association

DA: October 12, 2011

RE: AB 233, legislation relating to prevailing wage exemptions

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Good morning, Chairman Van Roy and members. My name is Kevin La Mere and I serve as President of the Wisconsin Pipe Trades Association (WPTA), a trade group representing the working men and women in the plumbing, steam fitting, and sprinkler fitting industries.

Discussion and debate on Wisconsin's prevailing wage law was very lengthy and thorough during the state budget process. Our organization understood the desire to re-examine the thresholds, and to that end participated in the process. Modifications were made to the law and only a few months have passed since then.

With that in mind, we are concerned that this legislation too quickly opens the door to broad exemptions of the prevailing wage law. Our knowledge of this legislation's purpose is to exempt a shelter for the Blue Mounds State Park. However, this bill as drafted would also create exemptions from prevailing wage rates on many University of Wisconsin dorms and stadiums, and other Department of Natural Resources (DNR) projects.

The WPTA works very closely with our contractors and share in the belief that prevailing wage is a fair, market-driven manner in which to calculate wages and benefits for certain public sector work.

A few key points for your consideration:

- The prevailing wage is not the union wage
- The market determines the wage rates; the prevailing wage is set by non-union *and* union private sector work

- It is set locally by county which ensures that the projects in Milwaukee for example do not offset projects in smaller, more rural areas of the state
- There are costs to the state to maintain public structures, which is why wage standards and building standards are put in place
- Because the Village of Blue Mounds has a population of fewer than 2500, the prevailing wage threshold kicks in at \$234,000, so an exemption already exists for smaller scale projects
- The shelter project is nearly half a million dollars, which is considered a sizeable project and does not qualify it as a small-scale project

We have been working to get answers on a couple questions relative to the Blue Mounds Park Shelter project, including:

- When was the project bid and how was the price determined without accounting for accurate wage rates?
- Was a quote obtained for this project with prevailing wage rates and without; and is there a difference in cost? If so, how much?

While we commend the Friends of Blue Mounds State Park for raising significant dollars for a worthy project, we do not support this legislation. The bill as drafted would create a broad, problematic loophole, not just exempt this project.

Thank you for the opportunity to provide feedback on this legislation. I would be happy to address any questions at this time.



Testimony in Support of AB 233  
Assembly Committee on Homeland Security and State Affairs  
October 11, 2011  
John Mielke, Vice President

There are many problems with Wisconsin's prevailing wage laws. I would like to draw your attention to just one. These laws are complicated.

1

**There is no single prevailing wage rate.** Wages are set for each county by trade and type of construction. This means there can be over 200 classifications and corresponding wage rates for each county, and nearly 16,000 wage rates and classifications across the state.

One Example: Electrician Rates in Three Neighboring Counties

Dane County	Base: \$32.55	Fringe: \$18.68	Total: \$51.23
Iowa County	Base: \$22.90	Fringe: \$0.35	Total: \$23.25
Green County	Base: \$27.15	Fringe: \$11.08	Total: \$38.23

2

**Worker classification is confusing.** Contractors are required to classify and pay their workers based on the duties those workers are performing. These duties are described in the Dictionary of Occupational Classifications which contains 54 highly detailed classifications (see pages 3-5 of this handout). Depending on specifically what the employee is doing there can be different rates. Moreover, because employees often work in multiple classifications in a single day contractors may be required to pay a single employee multiple wage rates on the same project and in the same day.

One Example: Setting and Stripping Concrete Forms

If an employee is stripping concrete forms in Dane County that **are to be** re-used they are classified as a Carpenter (Base: \$28.31, Fringe: \$14.91, Total: \$43.22). If the employee is stripping concrete forms that **are not** to be re-used, they are classified as a General Laborer (Base: \$24.69, Fringe: \$12.90, Total: \$37.59). If the employee is setting forms for the sidewalk, they are a General Laborer. If they are setting forms for the foundation or slab, they are a Carpenter.

3

**Wage determinations can result in wages that are nonsensical.** An owner with a project in Dane County can save \$8.82 per hour on trucking by requesting the contractor use a three axle dump truck rather than a two axle dump truck.

One Example: Truck Drivers Dane County\*

Single or Two Axle	Base: \$31.32	Fringe: \$10.83	Total: \$42.15
Three or More Axels	Base: \$17.75	Fringe: \$15.58	Total: \$33.33

\*To further complicate trucking – if the material is simply stockpiled or is to be moved by another piece of machinery, the trucking is not subject to prevailing wage. If the material is deposited in final place it is covered by prevailing wage.

These are just a few examples of the confusing nature of Wisconsin's prevailing wage laws. And because the law is complicated many, especially smaller, contractors simply avoid bidding on prevailing wage projects.

In a lowest responsible bidder environment less competition increases cost. This increase cost becomes particularly acute when spending private funds and not "just" spending tax dollars.

ABC of Wisconsin supports the passage of AB 233 and believes that it will result in lower construction costs on privately funded conservation, recreation and educational projects.

## **Sample Descriptions from the Dictionary of Occupational Classifications**

### **General Laborer**

CODE: 301

#### **PRIMARY PURPOSE:**

Performs a wide variety of both unskilled and semi-skilled tasks but does not regularly and routinely assist a worker in any other classification by using the tools normally associated with that worker's classification. Work performed is normally manual in nature , such as digging, loading, unloading, lifting, carrying, lugging, tending, stockpiling, sweeping and cleaning but does frequently involve the use of equipment powered by air, gas or electricity.

#### **TYPICAL DUTIES:**

Breaks old pavement, loosens or digs hard earth, trims bottom and sides of trenches, breaks large rocks, chips concrete or earthen backfill using tools driven by compressed air, gas or electric power. Cleans and pours heated asphalt into concrete joints. Distributes bituminous material evenly over surface of pavement by raking and brushing material to correct thickness. Mixes and delivers mortar by bucket, hod, wheelbarrow or buggy for use by bricklayer or plasterer. Unloads and distributes material, fixtures, furnishings and appliances from point of delivery on-site to stockpiles and from stockpiles to approximate point of installation. Operates chain saw to clear or grub areas of timber, brush, etc. Operates equipment to burn holes, etc. through concrete. Prepares concrete surfaces which are not to be finished by patching holes and broken corners and removes high spots and defective concrete. Installs expansion joints on all deck overlay work. Operates power driven, hand guided, water cooled saws used to cut through concrete slabs. Operates cutting torch for demolition work on steel structures. Fits together and aligns forms used to hold concrete in place on highways, streets, curbs, gutters and sidewalks. Keeps stakes and stringline set in place out in front of equipment to ensure accuracy of cut. Sets stakes to ensure depth of trench. Erects, planks and dismantles scaffolding.

Dries concrete, mortar and plaster when done by salamander method. Cleans and clears all debris. Mucks mesh when used to reinforce concrete, strips forms, other than those which are to be re-used in their original form, including all flat arch work. Cleans, oils and carries forms to the next point of erection. Snaps wall ties and removes tie rods. Sets rip-rap or other material for retaining walls. Installs paving brick for roadway or walkway when no mortar is used. Wraps, coats and distributes sewer, water and gas pipe. Shores ditches, trenches and manholes using wooden or corrugated metal sheet piling or other shoring material when used to retain soil or underground utilities. Removes shoring. Lays brick or block on concrete slab at bottom of trench up to grade level to provide a means of permanent access to sewer and water pipe. The laying of such brick or block is not normally set to a plumb line and no effort is made to keep

mortar off the face of the brick or block and joints are not pointed. Applies or coats mortar to interior and exterior surfaces of manholes.

Assembles large diameter metal culverts by bolting together semi-circular pieces to form a complete circle and bolts each section of circle to similar sections which are placed adjacently until desired length is reached. Lays tile, concrete, cast iron, plastic or corrugated metal pipe used to transport water, sewage, etc. by receiving pipe lowered from the top of a trench and inserting spigot end of pipe into bell end of last laid pipe and adjusts pipe to proper line and grade and seals joints with cement or other sealing material. Cleans, screens and feeds sand into hopper or pot of sandblasting machine. Breaks or demolishes hard material, buildings or structures by blasting. Cleans and dresses slopes, cuts and embankments while suspended by ropes or cables. Lowers hose-like flexible shaft or vibrator into newly poured concrete in order to compact same.

Constructs shafts and tunnels whether in free air or under compressed air. Drills, blasts, mucks and moves material from shafts and tunnels. Installs timbering, lagging, bracing, propping or shoring material in shafts and tunnels. Assembles multi-plate, liner plate, rings, mesh, mats or concrete forms in shafts and tunnels, including the setting of rods. Pours, pumpcretes or gunnites concrete into shaft or tunnel. Operates hydraulic jacking shields. Operates rock and concrete drills. Removes hazardous material other than asbestos. Lays fiber optic cable. Distributes, places and sets railroad ties and track including the setting of tie plates and tie bolting, gauging, leveling and spiking of rails. Performs ground clean-up for roof removal work. Performs roof removal when a building or structure is being demolished. Installs geomembranes and geotextile liners. May install process piping provided it does not handle potable water or require air pressure to function properly. May remove floor tile and mastic containing asbestos if removal methodology is allowed by OSHA or EPA.



## **Carpenter**

CODE: 105

### **PRIMARY PURPOSE:**

Constructs, erects, installs and repairs buildings and structures, structural members and fixtures made of wood, plywood, wallboard and materials that take the place of wood such as plastic, light gauge metals, composites, fiberglass, transite sheeting and cimento board using hand and power tools.

### **TYPICAL DUTIES:**

Lays out buildings or structures on-site. Makes, sets and adjusts all types of concrete forms, except those used for sidewalks, curb and gutter and pavement, including the establishment of building or flow lines and/or footing forms. Makes all forms used for box culverts, bridges and tilt-up construction. Strips and releases all concrete forms that are to be reused. Lays out, constructs and installs wall and footing forms including wood or steel block-outs. Erects wooden or self-supporting scaffolds. Selects proper lumber or materials. Prepares layout using rule, framing square and caliper. Marks cutting and assembling lines on material using pencil, chalk and marking gauge. Shapes material to prescribed measurements using saw, chisel and plane. Assembles, cuts and shapes materials and fastens them together with nails, dowel pins or glue. Erects wood framework for buildings or structures. Verifies trueness of buildings or structures with plumb bob and level. Builds wooden stairs. Installs ladders, handrails, walkways, platforms and gangways made of wood. Installs doors and wood and metal windows and bucks, (i.e. rough frames in which finished frames are inserted) including hardware in structural framework and braces same with boards nailed to structural framework. Installs subflooring and hardwood flooring. Fits and nails sheathing on outer walls and roofs. Installs laminated wooden beams and trusses. Makes and sets all frames, sash, blinds, trim and other fixtures when made of wood or any wood substitute. Assembles and installs wood chairs, seats, bleachers and benches and other furniture in theaters, halls, stadiums, grandstands, schools and other places of assemblage. Installs protection screens, chalk boards, toilet partitions (laminate or solid plastic). Caulks fixtures and countertops including corian tub and shower enclosures. Installs wood and metal studs and exterior panels. Cuts, saws and fits drywall (sheetrock) and lead-lined drywall (i.e. used in x-ray rooms to avoid radiation exposure), whether interior or exterior, for walls, ceilings, floors, soffits or any other use, no matter how installed (nailed, screwed, glued or otherwise). Installs corner guards and wooden or plastic column covers. Installs hardware such as locks, letterdrops, kickplates and door tracks. Installs weatherstripping. Makes, fits and hangs screen doors. Installs wood and hollow metal doors, glass sliding and bi-fold doors. Installs access flooring, computer floors and raised or elevated floors including modular headwall units, laboratory casework, library shelving and fume hoods. Constructs forms and chutes for pouring concrete. May weld metal parts to structural steel.

Department of Workforce Development  
Final Determination

Annual Prevailing Wage Rate Survey Data

Department of Workforce Development  
Final Determination  
Annual Prevailing Wage Rate Survey Data  
DANE COUNTY

Compiled by the State of Wisconsin  
For All Public Works Projects, Except State Highways  
Effective January 1st, 2011  
10/11/2011 10:11:36 AM

Total Rows Found = 7

DO NOT USE THE DATA ON A SPECIFIC PUBLIC WORKS PROJECT. WAGE RATE CORRECTIONS ARE INDICATED BY THE CHANGE DATE. OFFICIAL WAGE RATES TO BE USED ARE CONTAINED IN THE PROJECT SPECIFICATIONS.

TRUCK DRIVERS		HBR	FB's	Total	Date
201	Single Axle or Two Axle	\$31.32	\$10.83	\$42.15	01/07/2011

Includes sheltered enclosures with walk-in access for the purpose of housing persons, employees, machinery, equipment or supplies and non-sheltered work such as canals, dams, dikes, reservoirs, etc.

203	Three or More Axle	\$17.75	\$15.58	\$33.33	01/07/2011
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The project's character as a building. On-site grading, utility work and landscaping are included within this definition. Residential buildings of four (4) stories or less, agricultural buildings, parking lots and driveways.

105	Carpenter	\$28.31	\$14.91	\$43.22	01/07/2011
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Change

LABORERS		HBR	FB's	Total	Date
301	General Laborer	\$24.69	\$12.90	\$37.59	01/07/2011
	Premium Note: Add \$1.00/hr for certified welder; Add \$.25/hr for mason tender				
104	Cabinet Installer	\$28.31	\$14.91	\$43.22	01/07/2011
105	Carpenter	\$28.31	\$14.91	\$43.22	01/07/2011
106	Carpet Layer or Soft Floor Coverer	\$28.31	\$14.91	\$43.22	01/07/2011
107	Cement Finisher	\$30.73	\$14.38	\$45.11	01/07/2011
108	Drywall Taper or Finisher	\$25.95	\$13.20	\$39.15	01/07/2011
109	Electrician	\$32.55	\$18.68	\$51.23	08/25/2011
110	Elevator Constructor	\$43.79	\$21.82	\$65.61	01/07/2011
111	Fence Erector	\$22.50	\$3.66	\$26.16	01/07/2011
112	Fire Sprinkler Fitter	\$36.89	\$15.10	\$51.99	08/25/2011
113	Glazier	\$38.92	\$8.53	\$47.45	01/07/2011
114	Heat or Frost Insulator	\$33.28	\$22.51	\$55.79	01/07/2011
115	Insulator (Batt or Blown)	\$23.62	\$11.55	\$35.17	01/07/2011
116	Ironworker	\$30.90	\$17.11	\$48.01	02/17/2011
117	Lather	\$28.31	\$14.91	\$43.22	01/07/2011
118	Line Constructor (Electrical)	\$35.25	\$21.35	\$56.61	01/07/2011